

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1474-PWS-E **TCEQ ID:** RN105284301 **CASE NO.:** 34601
RESPONDENT NAME: Child Inc.

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Flat Creek Crossing Ranch, two miles east of the intersection of County Road 201 and Park Road 6026, Blanco County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on July 11, 2007, alleging that the drinking water from Flat Creek Crossing Water Supply was milky in color and had a bad taste. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 28, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Yuliya Dunaway, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4077; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. James Strickland, Executive Director, Child Inc., 818 East 53rd Street, Austin, Texas 78751 Ms. Patricia Juarez, Facilities Director, Child Inc., 818 East 53rd Street, Austin, Texas 78751 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: July 11, 2007</p> <p>Date of Investigation Relating to this Case: July 19, 2007</p> <p>Date of NOV/NOE Relating to this Case: August 30, 2007 (NOE)</p> <p>Background Facts: This was a complaint investigation. One violation was documented.</p> <p>WATER</p> <p>Failed to provide written notification of the reactivation of an existing public water supply system [30 TEX. ADMIN. CODE § 290.39(m)].</p>	<p>Total Assessed: \$100</p> <p>Total Deferred: \$20 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$80</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 10 days after the effective date of this Agreed Order, submit written notification to the Commission of the reactivation of an already existing public water system; and</p> <p>b. Within 25 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): 160015



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

DATES	Assigned	4-Sep-2007	Screening	12-Sep-2007	EPA Due	
	PCW	12-Sep-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Child Inc.
Reg. Ent. Ref. No.	RN105284301
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34601	No. of Violations	1
Docket No.	2007-1474-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Yuliya Dunaway
Multi-Media		EC's Team	EnforcementTeam 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$100**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **0% Enhancement** **Subtotals 2, 3, & 7** **\$0**

Notes There is no enhancement.

Culpability **No** **0% Enhancement** **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **0% Reduction** **Subtotal 5** **\$0**

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

0% Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$4**
 Approx. Cost of Compliance **\$100**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$100**

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment **\$0**

Notes

Final Penalty Amount **\$100**

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty **\$100**

DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

20%

Reduction

Adjustment **-\$20**

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$80

Screening Date 12-Sep-2007

Docket No. 2007-1474-PWS-E

PCW

Respondent Child Inc.

Policy Revision 2 (September 2002)

Case ID No. 34601

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN105284301

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

There is no enhancement.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 12-Sep-2007		Docket No. 2007-1474-PWS-E		PCW
Respondent Child Inc.		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 34601		<i>PCW Revision June 26, 2007</i>		
Reg. Ent. Reference No. RN105284301				
Media [Statute] Public Water Supply				
Enf. Coordinator Yuliya Dunaway				
Violation Number		<input type="text" value="1"/>		
Rule Cite(s)		<input type="text" value="30 Tex. Admin. Code § 290.39(m)"/>		
Violation Description		<input type="text" value="Failed to provide written notification of the reactivation of an existing public water supply system. Specifically, at the time of the investigation, it was determined that Child Inc. is operating a public water system at the Flat Creek Crossing Ranch with the water supplied to each cabin and the lodge."/>		
Base Penalty				<input type="text" value="\$1,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

>> Programmatic Matrix

Falsification				
Major	Moderate	Minor		
<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>		
Percent <input type="text" value="10%"/>				

Matrix Notes	<input type="text" value="100% of the rule requirements are not met."/>
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Adjustment	<input type="text" value="\$900"/>
<input type="text" value="\$100"/>	

Violation Events

Number of Violation Events <input type="text" value="1"/>		<input type="text" value="55"/> Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text" value="x"/>	
<input type="text" value="One single event is recommended."/>			

Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$4"/>	Violation Final Penalty Total	<input type="text" value="\$100"/>
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$100"/>	

Economic Benefit Worksheet

Respondent Child Inc.
Case ID No. 34601
Reg. Ent. Reference No. RN105284301
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	19-Jul-2007	1-Apr-2008	0.7	\$4	n/a	\$4
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the amount to submit notification of the water system reactivation, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Compliance History

Customer/Respondent/Owner-Operator:	CN603216110	CHILD INC	Classification:	Rating:
Regulated Entity:	RN105284301	FLAT CREEK CROSSING RANCH	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY		REGISTRATION	0160015
Location:	2 M EAST OF CR 201 AND PARK RD 6026, BLANCO COUNTY, TX			
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	September 06, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 01, 2002 to August 31, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Yuliya Dunaway		Phone:	(210) 403-4077

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- | | |
|------------------------|---|
| A. | Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. |
| | N/A |
| B. | Any criminal convictions of the state of Texas and the federal government. |
| | N/A |
| C. | Chronic excessive emissions events. |
| | N/A |
| D. | The approval dates of investigations. (CCEDS Inv. Track. No.) |
| | N/A |
| E. | Written notices of violations (NOV). (CCEDS Inv. Track. No.) |
| | |
| F. | Environmental audits. |
| | N/A |
| G. | Type of environmental management systems (EMSs). |
| | N/A |
| H. | Voluntary on-site compliance assessment dates. |
| | N/A |
| I. | Participation in a voluntary pollution reduction program. |
| | N/A |
| J. | Early compliance. |
| | N/A |
| Sites Outside of Texas | |
| | N/A |

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CHILD INC.
RN105284301**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1474-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Child Inc. under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and Child Inc. appear before the Commission and together stipulate that:

1. Child Inc. owns and operates a public water supply two miles east of the intersection of County Road 201 and Park Road 6026, Blanco County, Texas (the "Facility") that has approximately 15 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and Child Inc. agree that the Commission has jurisdiction to enter this Agreed Order, and that Child Inc. is subject to the Commission's jurisdiction.
3. Child Inc. received notice of the violation alleged in Section II ("Allegations") on or about September 4, 2007.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Child Inc. of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of One Hundred Dollars (\$100) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Child Inc. has paid Eighty Dollars (\$80) of the administrative penalty and Twenty Dollars (\$20) is deferred contingent upon Child Inc.'s timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order.

- Order. If Child Inc. fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Child Inc. to pay all or part of the deferred penalty.
6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
 7. The Executive Director of the TCEQ and Child Inc. have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
 8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Child Inc. has not complied with one or more of the terms or conditions in this Agreed Order.
 9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
 10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Child Inc. is alleged to have failed to provide written notification of the reactivation of an existing public water supply system, in violation of 30 TEX. ADMIN. CODE § 290.39(m), as documented during an investigation conducted on July 19, 2007.

III. DENIALS

Child Inc. generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Child Inc. pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and Child Inc.'s compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Child Inc., Docket No. 2007-1474-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that Child Inc. shall undertake the following technical requirements:

- a. Within 10 days after the effective date of this Agreed Order, submit written notification to the Commission of the reactivation of an existing public water system, as required by 30 TEX. ADMIN. CODE § 290.39. The notification shall be submitted to:

Utility Creation & Plan Review Team, Utilities & Districts Section
Water Supply Division, MC 153
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 25 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

3. The provisions of this Agreed Order shall apply to and be binding upon Child Inc. Child Inc. is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Child Inc. shall be made in

writing to the Executive Director. Extensions are not effective until Child Inc. receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. This Agreed Order, issued by the Commission, shall not be admissible against Child Inc. in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Child Inc., or three days after the date on which the Commission mails notice of the Order to Child Inc., whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Child Inc.
DOCKET NO. 2007-1474-PWS-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Allen
For the Executive Director

1/21/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Patricia Juarez
Signature

11-30-07
Date

Patricia Juarez
Name (Printed or typed)
Authorized Representative of
Child Inc.

Facilities Director
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

